IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

Tr.P(C).No. 28 of 2007

OP.675/2006 of FAMILY COURT, THIRUVALLA

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PETITIONERS/RESPONDENTS.

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1. REMANI K.THOMAS, KOCHUPURACKAL HOUSE, M.G.R.A. 67, M.K.K.NAGAR, PETTAH P.O., THIRUVANANTHAPURAM.

2. M.J.UNNI, KOCHUPURACKAL HOUSE, M.G.R.A. 67, M.K.K.NAGAR, PETTAH P.O, THIRUVANANTHAPURAM.

BY ADV. SRI.BASANT BALAJI
SRI.R.GOPAN

RESPONDENTS:

DR.PREETHA THOMAS, MULAMOOTIL VEETIL, KUTTOOR P.O., KUTTOOR, THIRUVALLA, NOW WORKING AS CUSTOMER SERVICE ASSOCIATE ALLIANCE CORNHILL INDIA TECHNOPARK, THIRUVANANTHAPURAM.

BY ADV. SRI.MVS.NAMBOOTHIRY

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Tr.P.(C)NO.28 OF 2007

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Dated this the 5th day of March 2007

ORDER

The petitioners are defendants 2 and 3 in O.P.675/06 on the file of the Family Court, Thiruvalla. It is submitted that their son is the first defendant in the said suit and that the respondent is the wife of the first defendant. O.P.675/06 has been filed by the respondent for return of 12,00,000/- and value of gold ornaments to the tune of Rs.5,00,000/- and all and compensation of Rs.5,00,000/- with interest etc. The prayer of the petitioners is to transfer the said O.P. from the Family Court, Thiruvalla to the Family Court, Trivandrum and that is vehemently opposed by the counsel for the respondent. It is contended by counsel for the petitioners that the first petitioner is a heart patient that though she is allowed to be represented through a lawyer the second petitioner has not been allowed to be represented through lawyer and that no difficulty will be caused to the respondent by a transfer of the case as the respondent is employed in Technopark at Thiruvananthapuram.

2. The transfer is vehemently opposed by the counsel for respondent. According to him, the respondent's house is at

Thiruvalla and the witnesses to be examined are also at Thiruvalla and it is only that the respondent is employed temporarily at Thiruvananthapuram and the respondent will be put to much inconvenience, if the case filed in Thiruvalla Family Court is transferred to the Family Court, Trivandrum. He also points out that in para 3 of the petition it is alleged that during November 2006, the petitioners constructed a new house at Ramangiri near Changanassery and it was there that notice in the above O.P. was served on the petitioners. The first petitioner entered appearance before the Family Court through a counsel but the second petitioner was not so allowed to be represented through a counsel. According to the counsel for the respondent the attempt of the petitioners is somehow to get a transfer of the case from Family Court, Thiruvalla.

3. I have ascertained from the counsel for the petitioner that the ailment is only for the first petitioner and not for the second petitioner. However, the Family Court, Thiruvalla has allowed the first petitioner to be represented through a lawyer. Consequently, therefore the presence of the first petitioner will

be required in the Family Court only when she is specifically ordered to be present and not otherwise and she can be represented by her lawyer before the Family Court. Admittedly, marriage was solemnised at Thiruvalla and relatives of both parties are also at Thiruvalla and Changanacherry. Witnesses also will be from that place only and if transfer of the case is ordered to the Family Court, Trivandrum much inconvenience will be caused to the respondent and probably to the petitioners also as the witnesses will have got down to Trivandrum for the purpose of this case if they want to examine any witness.

In the circumstances, I dispose of this transfer petition disallowing the prayer for transfer; and at the same time directing the Family Court, Thiruvalla not to insist for personal appearance of first petitioner unless her presence is highly essential for any purpose whatsoever. On other occassions she can be allowed to be represented though her lawyer.

K.P.BALACHANDRAN, JUDGE

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